

**COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR
STATE OF MONTANA**

**IN THE MATTER OF THE REPORT OF
THE MARKET CONDUCT
EXAMINATION OF BITTERROOT
FARM MUTUAL INSURANCE, INC.,**

Respondent.

CASE NO. INS-2010-21

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ADOPTING THE
MARKET CONDUCT EXAMINATION
REPORT OF DECEMBER 31, 2008**

Having fully considered the proposed Report of Market Conduct Examination of Bitterroot Farm Mutual Insurance, Inc. dated December 21, 2009, and the revised Report of Market Conduct Examination of Bitterroot Farm Mutual Insurance, Inc. dated February 12, 2010, the Commissioner of Securities and Insurance, Office of the State Auditor, hereby makes the following findings of fact, conclusions of law and order adopting the revised market conduct examination report:

FINDINGS OF FACT

1. David Drynan and Kimberlee Hewitt, the Examiners representing the Montana Commissioner of Securities and Insurance, Office of the State Auditor, (CSI) conducted an examination of the affairs, transactions, and records of Bitterroot Farm Mutual Insurance, Inc. and prepared a Market Conduct Examination Report (Report) covering the period from January 1, 2005, through December 31, 2008.
2. The verified written Report was completed and served on December 21, 2009, together with a notice giving Bitterroot Farm Mutual Insurance, Inc. 30 days to make written submission or rebuttal with respect to any matters contained in the Report.
3. Bitterroot Farm Mutual Insurance, Inc. provided a written submission on January 19, 2010, with respect to matters contained in the Report.

4. The Examiners considered the submission from Bitterroot Farm Mutual Insurance, Inc., and made two minor changes and several typographical changes to the Report.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-311, which charges the Commissioner with the duty of administering and enforcing the Montana Insurance Code, and pursuant to sections in Title 33, Chapter 1, Part 4, Mont. Code Ann. which govern examination of insurers by the CSI; and Mont. Code Ann. § 33-4-315 which governs examination of farm mutual insurers.
2. Pursuant to Mont. Code Ann. § 33-1-409, the CSI has authority to issue a final agency determination with respect to this Report.

ORDER

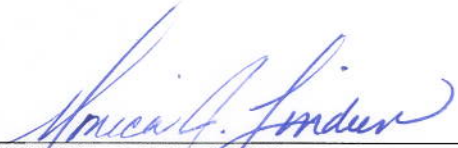
Having carefully and thoroughly reviewed and considered the examination report, relevant examiner workpapers, and any written submissions and rebuttals in this matter, IT IS ORDERED:

1. The revised Market Conduct Examination Report of Bitterroot Farm Mutual Insurance, Inc. as of December 31, 2008, attached hereto as Exhibit A, is hereby adopted in full.
2. Bitterroot Farm Mutual Insurance, Inc. shall correct the deficiencies noted in the Summary of Significant Findings in the adopted Report (Exhibit A) by March 19, 2010.
3. Bitterroot Farm Mutual Insurance, Inc. shall also comply with the list of recommendations provided with the verified written Report and correspondence dated December 21, 2009, or shall otherwise address and rectify the issues raised in the list of recommendations. By October 1, 2010, Bitterroot Farm Mutual Insurance, Inc. shall file with CSI a letter regarding the actions taken to comply

with the list of recommendations or to otherwise rectify the issues raised in the list of recommendations.

4. Within 30 days of the mailing of this Order, each of Bitterroot Farm Mutual Insurance, Inc.'s directors shall file affidavits with the CSI stating under oath that they have received a copy of the adopted Report and related Order.
5. Pursuant to Mont. Code Ann. § 33-1-409(5), this Order and the adopted Market Conduct Examination Report (Exhibit A) shall remain confidential for 30 days following the issuance of the same.

DATED this 17th day of February, 2010.



MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of February, 2010, I served a true and accurate copy of the foregoing Findings of Fact, Conclusions of Law and Order Adopting the Market Conduct Examination Report as of December 31, 2008, by U.S. mail, postage prepaid and certified, receipt # 70090080000243442595 to the following address:

Leslie L. Tintzman, PFMM
Bitterroot Farm Mutual Insurance, Inc.
605 Willow Creek Road
Corvallis, MT 59828-9473



Montana State Auditor's Office



Market Conduct Examination

of

Bitterroot Farm Mutual Insurance, Inc.

Corvallis, Montana

as of December 31, 2008

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Scope of Examination

The Montana Insurance Department conducted a market conduct examination of Bitterroot Farm Mutual Insurance, Inc. that covered a four-year period from January 1, 2005 through December 31, 2008.

The examination was conducted pursuant to the provisions of Mont. Code Ann. §§ 33-1-401 *et seq.* and 33-4-316 and in accordance with the procedures and guidelines outlined in the Market Conduct Examiners Handbook as adopted by the National Association of Insurance Commissioners and the Montana State Auditor's Office. The examination was conducted at the Company's home office located at 605 Willow Creek Road, Corvallis, MT 59828.

Operations and Management

Bitterroot Farm Mutual Insurance, Inc. was originally incorporated and licensed to do business as Farmers Mutual Fire Insurance Association of Ravalli County on July 16, 1910. Effective May 3, 1996, the Company amended its Articles of Incorporation to reflect a name change to Bitterroot Farm Mutual Insurance, Inc. The Company wrote only property risks until January 1, 2004, at which time it also began writing liability risks in accordance with its Articles of Incorporation.

Bitterroot Farm Mutual Insurance, Inc. undergoes an annual external audit performed by a CPA firm with no affiliation to the company.

Bitterroot Farm Mutual Insurance, Inc. is managed by the five-member Board of Directors who serve staggered three-year terms. New board members are selected in February of each year at the Annual Membership Meeting of the Company. The president and vice president are elected from within the board members at a meeting following the Annual Membership Meeting. The president and vice president each serve an annual term. The Company employs Leslie L. Tintzman in the capacity of secretary/treasurer, manager & licensed producer to manage the daily operations of the company.

The directors, secretary/treasurer and manager serving during the time period covered by this examination are as follows:

Director/Officer Name	Office Held	Term
Albert B. Gardner	Pres. 2/05 through 2/09	ending 2/06 & 2/06-2/09
Curtis W. Peterson	V. P. 2/05 through 2/09	ending 2/07 & 2/07-2/10
Donald W. Tintzman	Director	ending 2/05 & 2/05-2/08
Paul Barteni Elected to fill the expired term of Donald W. Tintzman, (deceased 12/07)	Director	2/08-2/11
Robert E. Smyth	Director	ending 2/06 & 2/06-2/09

Director/Officer Name	Office Held	Term
Albert E. Gardner Elected to fill the unexpired term of Robert E. Smyth, (deceased 12/08)	Director	2/08-2/09
Charles C. Burruss	Director	2/04-2/07 & 2/07-2/10
Leslie L. Tintzman	Secretary/Treasurer and Manager	Annually through 2/2010

Complaint Handling

The Company has never received any complaints; however, they are aware a log must be instituted and maintained pursuant to Mont. Code Ann. § 33-18-1001 should the need arise.

Marketing and Sales

Advertising consists of a generic listing in the Yellow Pages. The Company has also used promotional handouts such as pens and pads of sticky notes. During the time frame of the exam, all advertising materials and their usage appear to be in compliance with applicable statutes, rules and regulations.

Producer Licensing

Leslie L. Tintzman is the only individual appointed by the Company to transact liability insurance. During the time frame of the exam, she has maintained a valid producer license through the State of Montana for the appropriate lines of insurance being transacted.

Policyholder Service

Policyholder service is provided by Leslie L. Tintzman in her capacity as manager. A sampling of the company's policyholder files were reviewed for timeliness in processing applications, endorsements, cancellation requests and miscellaneous policy transactions on a timely basis, reflective of their rating plan and guidelines. Policyholder files are extremely well documented in every aspect.

The company uses forms provided and filed on its behalf by AAIS. Language found within AAIS forms bearing the title *Amendatory Endorsement Montana* obligates the Company to provide 45-day written notice to the insured when a policy renewal is offered with terms less favorable to the insured or at a higher rate or higher rating plan that is not the result of a change in risk.

It is the practice of the Company to apply an incrementally increasing premium surcharge at renewal to those policies affording extended coverage to risks with asphalt roofs. The surcharge increases with each policy renewal until the roof has been replaced (at which time the surcharge is removed) or the roof has deteriorated to the point coverage for the roof is excluded. The application of this practice produces an increased premium and thereby necessitates Company compliance with the 45-day notice provision contained in the policy. During the time period covered by this examination, the Company did not provide notice to affected policyholders in a manner consistent with policy language.

During the time frame covered by the exam, unearned premiums resulting from an insured requested mid-term cancellation were being refunded to the appropriate party if the amount exceeded \$25.00. This practice was pursuant to a decision by the Board of Directors and reflected in the Board's meeting minutes. The practice is not addressed in the Company's By-Laws or rating plan.

Underwriting and Rating

A review of Bitterroot Farm Mutual Insurance, Inc.'s policies was conducted to determine accuracy of rating, use of proper forms and endorsements, adherence to consistent and nondiscriminatory underwriting practices, timely processing of applications and compliance with all other applicable provisions of Title 33, Montana Code Annotated.

Bitterroot Farm Mutual Insurance, Inc. issues policies using an annual policy period which is reflected on the policy declarations page. The Company sends a questionnaire with each policy renewal in part as a reminder to insureds to notify the Company of any changes in the risk and offering any new coverages and/or increased limits that have become available. The Company also sends a more thorough questionnaire at five-year intervals on each policy it issues. The format in which the five-year period is presented on the declarations page has the potential to create an ambiguity in regard to the actual length of the policy term (1 year vs. 5 years).

Each policy reviewed was accurately rated and underwritten according to the Company's guidelines. Each application, policy and applicable endorsements were completed and issued on forms in compliance with Mont. Code Ann. § 33-4-509. The Company does not use scripted endorsements or forms.

Bitterroot Farm Mutual Insurance, Inc. does not use credit scoring in its underwriting and rating process nor does it employ criteria outside of their adopted underwriting standards.

The Company provides a Notice of Information Practices/Privacy at the time of application and receives a written acknowledgment indicating receipt by the applicant. The Company mails a privacy notice to members with the renewal of each policy.

There were no applications denied and no policies were rescinded, non-renewed or cancelled during the time frame of the examination.

Claims

All claims reported to the Company during the time frame covered by the examination were reviewed by the examiners. Claims are reported directly to the Company by its insureds and occasionally by third-party claimants. Each claim is adjusted by at least two company directors with the assistance of Leslie L. Tintzman. Claim investigation, communications and resolution are completed in a timely manner. Consideration is given to all available information. Claim files are well documented and support the Company's coverage decision.

Two of the claims reviewed involved total losses to structures caused by the covered peril of fire. In both instances the amount of the *loss* was determined to exceed the amount of *coverage* applicable to the *loss*. The deductible on one of the policies was \$500 per occurrence, the other was \$1000. In each of the claim payment calculations the deductible was applied to the *coverage* available for the *loss*.

The "Loss Settlement Terms" contained in the insurance policies affording coverage to these risks states, in part, "We pay for that part of the *loss* (emphasis added) over the deductible. Not more than one deductible applies per occurrence."

In order to correctly determine the amount payable on the claims in question (and any future claims) in conformance with policy language it would be necessary for the Company to initially establish the total amount of the *loss*. The amount of the *loss* is then reduced by the application of the deductible. The resulting figure should be compared to the amount of *coverage* available for the *loss*. When the amount of the *loss* after application of the deductible exceeds the *coverage* available for the *loss* the amount payable is the limit of *coverage* applicable to the *loss*.

Summary of Significant Findings

During the time period covered by this examination, the following were found:

Bitterroot Farm Mutual Insurance, Inc. did not consistently provide insureds with timely notice of renewal with altered terms in accordance with policy language.

Bitterroot Farm Mutual Insurance, Inc. did not correctly determine the amount payable on claims involving losses in excess of coverage in a manner set forth by the "Loss Settlement Terms" of the insurance contracts issued by the insurer.

Conclusion


The Market Conduct Examination Report of Bitterroot Farm Mutual Insurance, Inc. is respectfully submitted to the Honorable Monica J. Lindeen, State Auditor and Commissioner of Insurance and Securities of the state of Montana.

The examiners wish to express their appreciation for the courteous and prompt cooperation and assistance of the officers and employees of the Company during the course of the examination.

STATE OF MONTANA)
) ss.
COUNTY OF LEWIS AND CLARK)

DATED this 12th day of February, 2010.

David Drynan, AIE


Kimberlee Hewitt

SUBSCRIBED AND SWORN to before me this 12th day of February, 2010.

Printed Name TL Nyland
Notary Public for the state of Montana
Residing at Helena, Montana
My Commission expires July 01, 2012

